IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

OP.No. 23515 of 2001(F)

PETITIONER:

VELAPPAN, S/O. ANANTHAKRISHNAN,
AGED 56 YEARS RESIDING AT RESMI NIVAS,
T.C. 41/1660, MANARKKAD VILLAGE,
MANARKKAD, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR).

RESPONDENTS:

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1. **STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT, TIRUVANANTHAPURAM.**

2. **KERALA STATE ELECTRICITY BOARD, VAIDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM, REPESENTED BY IT'S SECRETARY.**

3. **THE CHIEF ENGINEER, (H.R.M), KERALA STATE ELECTRICITY BOARD, VAIDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.**

4. **THE THIRUVANANTHAPURAM CO-OPERATIVE URBAN BANK LTD., MAIN BRANCH, M.G. ROAD, THIRUVANANTHAPURAM, REPRESENTED BY THE MANAGER.**

5. **SRI. SREEKANDAN PULLETTUMUDUMPIL, ANAYARA, THIRUVANANTHAPURAM TALUK, THIRUVANANTHAPURAM DISTRICT.**

O.P. NO. 23515/2001:

6. R. TRIVIKRAMAN NAIR, T.C. 28/135,
SREEGIRI, ATHANNI LANE,
KAITHAMUKKU, THIRUVANANTHAPURAM.

7. THE JOINT REGISTRAR (GENERAL) OF THE CO-OPERATIVE SOCIETIES, CO-OPERATIVE DEPARTMENT,
VANCHIYOOR, THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR R2 & R3,
SRI.V.G.ARUN FOR R4,
SRI. T.R. HARIKUMAR,
SRI.S.GOPAKUMARAN NAIR
GOVERNMENT PLEADER SMT. T.B. RAMANI FOR R1

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 38515/2001 IN O.P. NO. 23515/2001

DISMISSED

27/06/2007. **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE CIRCULAR WITH NO. A.O/P.A./GL/3/2001 ISSUED BY THE R.2. DTD. 21/03/2001.

EXT.P.2: COPY OF THE ORDER PASSED BY THE R.7 DTD. 06/05/2000.

EXT.P.3: COPY OF THE COMMUNICATION ISSUED BY THE R.4. TO THE R.3. DTD. 16/09/2000.

EXT.P.4: COPY OF THE COMMUNICATION WITH NO. 757/2000-2001 ISSUED BY THE R.4. TO THE R.3. DTD. 20/09/2000.

EXT.P.5: COPY OF THE REPRESENTATION MADE BY THE PETITIONER TO THE R.3. DTD. 09/10/2000.

EXT.P.6: COPY OF THE REPRESENTATION MADE TO THE R.7 DTD. 23/12/2000.

EXT.P.7: COPY OF THE G.O. (P) 275/86 FIN. ISSUED BY THE FINANCE (PENSION-B) DEPARTMENT DTD. 31/03/1986.

EXT.P.8: COPY OF THE UNDERTAKING MADE BY THE R.6 DTD. 06/11/2000.

EXT.P.9: COPY OF THE COMMUNICATION TO THE R.3. DTD. 07/09/2001.

EXT.P.10: COPY OF THE LETTER ISSUED BY THE EXECUTIVE ENGINEER, ELECTRICAL DIVISION, EAST THIRUVANANTHAPURAM TO THE R.3. DTD. 20/10/2000.

EXT.P.11: COPY OF THE LETTER ISSUED BY THE R.4. TO THE R.3. DTD. 02/09/2003.

EXT.P.12: COPY OF THE COMMUNICATION DTD. 13/10/2000.

EXT.P.13: COPY OF THE SALARY CERTIFICATE DTD. 31/10/1995.

O.P. NO. 23515/2001:

EXT.P.14: COPY OF THE CIRCULAR NO. 42/2003/FIN. ISSUED BY THE R.1. ADOPTING THE REPORT OF THE UPLOK AYUKTA REGARDING RECOVERIES FROM DCRG DTD. 22/05/2003.

EXT.P.15: COPY OF THE COMMUNICATION REGARDING DISBURSEMENT OF DCRG ISSUED BY THE R.3. DTD. 11/05/2005.

EXT.P.16: COPY OF THE OBJECTION FILED BY THE PETITIONER TO EXT. P.15 PROPOSAL DTD. 23/05/2005.

EXT.P.17: COPY OF THE DISMISSED ORDER IN CRL.M.C. 2245/2005 PASSED BY THIS HONOURABLE COURT DTD. 16/11/2006.

EXT.P.18: COPY OF THE REPORT SUBMITTED BY THE JOINT REGISTRAR (GENERAL) DTD. 30/09/2002.

RESPONDENT'S EXHIBIT:

EXT.R4.A: COPY OF THE AGREEMENT EXECUTED BY THE PETITIONER DTD. 29/11/1998.

//TRUE COPY//

prv.

Thottathil B. Radhakrishnan, J.

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O.P.No.23515 of 2001

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Dated this the 27th day of June, 2007.

JUDGMENT

The petitioner retired from service on 30-9-2000. It appears, as stated on behalf of the Board, that there was some order interdicting recovery from DCRG till the fourth respondent Bank requested the Electricity Board to release the amounts on 9-11-2000. This means that, on 10-11-2000, the second respondent was duty bound to release the amounts, which it had with it, as part of the DCRG of the petitioner. If that be so, the liability of the petitioner to the fourth respondent has to be pegged at that amount and any further accruing interest is not to be charged on the petitioner. It would be open to the fourth respondent to work out its remedies against any other sureties or the principal debtor or the second respondent Board for not releasing the amounts due from the DCRG of the petitioner in time. Such questions are left open after declaring that the petitioner's liability ends with 10-11-2000. This means that any

amount remaining towards DCRG and other retiral benefits that may be due to the petitioner are also to be released by the second respondent.

2. In the result, this writ petition is disposed of in the following terms:

(1) The amount that the petitioner shall be liable to pay to the fourth respondent on account of Ext.R4(a) shall be the amount accrued in the loan account as on 10-11-2000. The challenge of the petitioner to Ext.R4 (a) to that extent, is repelled.

(2) The fourth respondent is left with the liberty to take appropriate action for recovery of the remaining portion, except from the petitioner.

(3) It is clarified that the findings in this judgment are rendered only for the purpose of disposing of this writ petition and does not have any bearing on the criminal case pending against the petitioner.

(4) Any outstanding DCRG in terms of the aforesaid will be released to the petitioner by the second respondent within a period of one month from the date of receipt of a copy of this judgment.

(5) Claim for interest is pressed. The same is rejected because the delay is not attributable to the Board.

Thottathil B.Radhakrishnan,
Judge.

sl.

Thottathil B. Radhakrishnan, J.

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O.P.No.23515 of 2001

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JUDGMENT

Dated:27-6-2007